IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 4580 of 2007()

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CRA.302/2002 of II ADDL.SESSIONS COURT, KOLLAM
CC.391/1999 of JUDL.MAGISTRATE OF FIRST CLASS,
KARUNAGAPPALLY

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REVN. PETITIONER: APPELLANT/ACCUSED:

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SIVADASAN @ KOCHUPODIYAN,
S/O.DIVAKARA PANICKER, MADATHIL VADAKKETHIL,
VADAKKUM MURI PADINJARU, THAZHAVA VILLAGE,
KARUNAGAPPALLY, KOLLAM/.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS: RESPONDENT/COMPLAINANT AND STATE:

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STATE OF KERALA REPRESENTED BY THE
SUB INSPECTOR OF POLICE, OCHIRA POLICE STATION,
KOLLAM DISTRICT THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**V. RAMKUMAR, J.**

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**Crl.R.P.No. 4580 of 2007**

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**Dated this the 19th day of December, 2007**

**ORDER**

Heard both sides. The revision petitioner, who was the accused in C.C.No.391 of 1991 on the file of Judicial First Class Magistrate Court, Karunagappally for an offence punishable under Sections 324 IPC, challenges the conviction entered and sentence passed against him concurrently by the courts below for the said offence.

2. The case of the prosecution can be summarised as follows:

On 23.3.1999 at 12.30 noon, the accused uttered abusive words at PW1. When he requested the accused not to utter such abusive words, the accused inflicted a cut injury with a knife on left side of the head of PW1 just above the left ear. The occurrence took place on the public road at Thazhava Vadakkum Muri Padinjaru in Thazhava village.

3. On the side of the prosecution 8 witnesses were examined as PW1 to PW8 and five documents were marked as Exts.P1 to P5.

4. After the close of the prosecution evidence, the accused was examined under Section 313(1)(b) Cr.P.C with regard to the incriminating circumstances appearing against him in the evidence for the prosecution. He denied those circumstances and maintained his innocence. He did not adduce any defence evidence when called upon to do so.

5. The learned Magistrate after trial, as per judgment dated 1.11.02 found the accused guilty of the offence punishable against him. He was sentenced to simple imprisonment for a period of three months and to pay a fine of Rs.1,500/- an on default to pay the fine, to suffer simple imprisonment for one month.

6. Aggrieved by the said conviction entered and sentence passed by the trial court, the revision petitioner preferred an appeal before the Sessions Court, Kollam as Crl.A.No.302/2002. The learned II Additional Sessions Judge dismissed the said appeal as per judgment dated 07.08.07. Hence this revision.

7. Even though the learned counsel appearing for the revision petitioner assailed on various grounds the conviction

recorded against the revision petitioner, in as much as the conviction has been recorded concurrently by the courts below after a careful evaluation of the oral and documentary evidence in the case. I see little scope for interfering with the said conviction entered against the revision petitioner by the courts below. The conviction is accordingly confirmed.

8. What now survives for consideration is the question regarding the adequacy or otherwise of the sentence imposed on the revision petitioner. The occurrence took place all on a sudden and it was not a pre-planned attack by the accused on PW1. Having regard to the facts and circumstances of the case, I do not think the revision petitioner deserves penal servitude by way of incarceration. I am of the view that an appropriate compensation coupled with a direction to suffer a sentence of imprisonment till the rising of Court shall meet the ends of justice. Accordingly, the sentence imposed on the revision petitioner is set aside and instead, he is directed to suffer imprisonment till the rising of the court and to pay a sum of Rs.7,500/-(Rupees seven thousand five hundred only) as

compensation to PW1 under Section 357(3) Cr.P.C. If the compensation is not deposited within one month from today, the revision petitioner shall suffer simple imprisonment for one month by way of default sentence.

In the result, this revision petition is disposed of confirming the conviction but modifying the sentence as above.

**V. RAMKUMAR, JUDGE**

sj